



February 28, 2019

Via Email: 66359-41334823@requests.muckrock.com

Veronica Horowitz
MuckRock News
411A Highland Ave
Somerville, MA 02144-2516

FOIL Request: #2359

Dear Ms. Horowitz:

This letter responds to your correspondence dated December 24, 2018, which pursuant to FOIL, requested:

copies of commutation applications, and transcripts from
commutation hearings from 2000- present.

The portion of your request seeking “copies of commutation applications...from 2000-present” is exempt pursuant to Public Officers Law § 87(2)(b) because, if disclosed, would “constitute an unwarranted invasion of personal privacy.” Additionally, certain records are exempt from production because they are “inter-agency or intra-agency materials”, which are not: statistical or factual tabulations or data; instructions to staff that affect the public; final agency policy or determinations; or external audits. Public Officers Law § 87(2)(g). Finally, Public Officers Law § 87(2)(a) precludes access to records that are “specifically exempted from disclosure by state or federal statute.” Therefore, certain records that respond to your request are exempt from production pursuant to Criminal Procedure Law §390.50, 42 USC §290dd-2, and Public Health Law §18.

The New York State Executive Chamber has conducted a diligent search of available records for the remainder of your request seeking transcripts of commutation hearings and has not located any responsive records.

Pursuant to Public Officers Law § 89(4)(a), you have thirty (30) days to take a written appeal of this determination. You may appeal by writing: FOIL Appeals Officer, Executive Chamber, State Capitol, Albany, New York, 12224.

Very truly yours,

A handwritten signature in black ink, appearing to read "Valerie Lubanko". The signature is fluid and cursive, with the first name "Valerie" and last name "Lubanko" clearly distinguishable.

Valerie Lubanko
FOIL Counsel
Records Access Officer